

PATENT
10/037,347

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Antonacci, Paul) Attys Docket: 2000-1550-CIP
)
Serial No.: 10/037,347) Group Art: 3727
)
Filed: 10/23/2001)

For SIDE-SEALED BAG HAVING LABEL SECTION AND
METHOD OF PRODUCTION THEREFOR

RESPONSE TO INTERVIEW SUMMARY MAILED FEBRUARY 1, 2005

MS: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Myers & Kaplan, L.L.C.
Intellectual Property Law
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

April 1, 2005

Dear Sir:

On January 26, 2005, Applicant's attorney, Ashish D. Patel (50,177), held a telephone conference with Primary Examiner Gene Kim and Examiner Paul Durand in connection with the above-referenced application, thus resulting in said Examiners issuing the present Interview Summary mailed on February 1, 2005, to which Applicant provides the following statement of the substance of same.

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail with sufficient postage in an envelope addressed to: MS: Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

4-1-05

(Date)

Cynthia Pilato
(Name of Person Mailing)

Cynthia Pilato
(Signature of Person Mailing)

4-1-05

(Date)

Applicant respectfully notes the following:

- 1) No exhibit was shown, nor was any demonstration conducted.
- 2) Independent Claims 3, 11, 19, 26, 34 and 42 were discussed.
- 3) The following prior art was discussed: Daller (U.S. Patent No. 2,143,844), Wikle (U.S. Patent No. 2,774,402), Daniels (U.S. 2,428,266), and Madderom (U.S. Patent No. 5,912,197).
- 4) Applicant's attorneys and Examiners discussed the cited prior art, and amending Applicant's claims to delete the phrase "capable of being" from said Independent Claims to distinguish Applicant's claimed method over said prior art
- 5) To further distinguish Applicant's method from that of the cited art, Applicant asserted the following: the general configuration of the bag produced by Applicant's method, and the cost savings associated with Applicant's claimed method, as Applicant's film section forms a load-bearing wall of the bag, and is not simply affixed to the exterior of the bag like that of Madderom; that Daller discloses a wrapper and not a bag, nor method of bag-manufacture; that Daniels and Madderom are tube-bags, and disclose methods for the manufacture of such tube-bags, which are inherently different methods than that of Applicant's claimed method, and which further result in inherently different bag products.
- 6) Applicant requested that the finality of the office action be removed as the rejection of the wording "capable of being", which appeared in the originally filed claims, was not raised by Examiner Durand until the present office action, and that had it been raised earlier, then Applicant would have addressed it at that earlier time. However,

Examiners did not feel that the foregoing would justify removal of the finality of the office action.

- 7) Examiner Durand stated that he would still need to conduct another search to determine patentability of the claims in view of the above-referenced proposed amendment.
- 8) An agreement was not reached with respect to the claims.

Applicant has appended a copy of Examiners' Interview Summary mailed on February 1, 2005 to supplement Applicant's above-presented Interview Summary.

The herein statement of the substance of the telephonic interview pursuant to MPEP Section 713.04 is believed to be complete and responsive to the telephone conference of January 26, 2005 in connection with the above-referenced application, which resulted in the present Examiners' Interview Summary mailed on February 1, 2005. If, however, Examiners feel that this statement is not complete, Applicant's attorney respectfully requests notification thereof to rectify any deficiencies.

Respectfully submitted, this 1st day of April, 2005.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,347	10/23/2001	Paul Antonacci	2000-1550-CIP	6459

30184 7590 02/01/2005

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EXAMINER

DURAND, PAUL R

ART UNIT PAPER NUMBER

3721

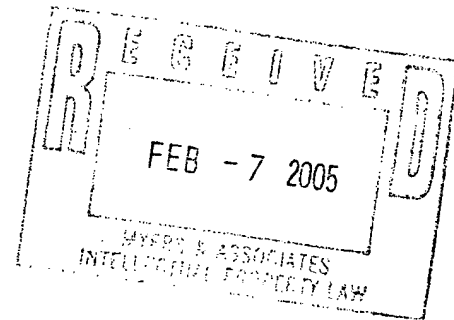
DATE MAILED: 02/01/2005

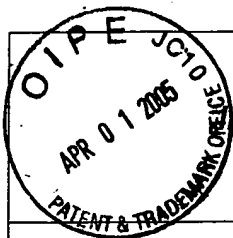
DOCKETED

2-7-05 CP

3-1-05

Please find below and/or attached an Office communication concerning this application or proceeding.





Interview Summary

Application No.	Applicant(s)	
10/037,347	ANTONACCI, PAUL	
Examiner	Art Unit	
Paul Durand	3721	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Paul Durand. (3) Ash Patel.
(2) Gene Kim. (4) _____

Date of Interview: 26 January 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 3,11,19,26,34 and 42.

Identification of prior art discussed: Daller, Madderom and Daniels.


Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant stated that the pending application is a continuation in part of patent number 6,371,645, which was the finished product. Applicant stated that novelty of present invention is that the method as claimed allows the applicant to manufacture a bag that is comprised of a label section, which is joined with a film section on either side. This offers a substantial savings over the prior methods since it does not require the label section to be placed on top of the bag thereby reducing manufacturing costs substantially. Applicant proposed amending the claims by removing the limitation "capable of" from the claims to better place them in condition for allowance. Applicant reasoning is that the primary reference of Daller is a sheet used to wrap a product and not used to make a bag. Applicant also objects to the previous office action big made final because of the rejection being based on this capability limitation, which was not argued in previous actions. Examiner Kim stated that this was being done to further clarify the rejection and that this did not fall under the definition of a new basis for rejection. Examiner Durand asserted that the teaching of Madderom was obvious to use to show applicant that the use of thermoplastic strips is well known as a means fro strengthening the seal area. Furthermore, applicant also asserted that the teaching of Daniels and Madderom were not applicable since they are used in the manufacture if tube type bags, while applicant's invention focuses on "V" type folded bags. Applicant was advised that removal of capable type limitations would require an updated search, and that the rejection would most likely be maintained. .